

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
)
)
vs.) Criminal No. 98-55
)
HASAN STEVENS,)
)
Defendant.)

O R D E R

AND NOW, this 25th day of August, 2011, upon consideration of Defendant Hasan Stevens' pro se "Motion to Modify the Term of Imprisonment" (Document No. 96), filed in the above-captioned matter on August 24, 2011,

IT IS HEREBY ORDERED that said Motion is DENIED.

Defendant already has requested a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2). This Court denied Defendant's prior request by Order dated June 24, 2008. As the Court explained in that Order, Defendant was sentenced to the statutory minimum sentence pursuant to 21 U.S.C. § 841(b)(1)(A). Accordingly, as explained in the 2008 Order, the Court has no authority to further reduce Defendant's sentence pursuant to Section 3582(c)(2).

In the present motion, Defendant attempts to alter the analysis by arguing for retroactive application of the Fair Sentencing Act, Pub.L. 111-120, 124 Stat. 2372 (2010). However,

this argument is precluded by the Third Circuit Court of Appeals' decision in United States v. Reevey, 631 F.3d 110 (3d Cir. 2010), where the Court specifically held that the Fair Sentencing Act does not apply retroactively when the sentence was imposed before the enactment date. Defendant's reliance on United States v. Dixon, 2011 WL 3449494 (3d Cir. Aug. 9, 2011), is misplaced. That case addressed whether the Fair Sentencing Act applies retroactively to defendants who committed their crime prior to the enactment of the Act, but who were sentenced after the Act became law. Defendant was sentenced long before the enactment date, so it is Reevey, and not Dixon, that governs this case.

Accordingly, for all of the above reasons, no reduction in Defendant's sentence is warranted, and his motion is denied.

s/Alan N. Bloch
United States District Judge

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